

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Reclassification of License of |) | RM-10393 |
| Station WBPT(FM), Homewood, Alabama |) | |
| |) | |

ORDER TO SHOW CAUSE

Adopted: July 3, 2002

Released: July 19, 2002

By the Assistant Chief, Audio Division:

1. The Audio Division has before it a petition for rule making filed by Alatron Corporation, Inc., seeking to amend the FM Table of Allotments by allotting Channel 292A to Maplesville, Alabama, as its first local aural transmission service. Harper claims that, in order to meet spacing requirements to Station WBPT(FM), Homewood, Alabama, that station must be reclassified as a Class C0 facility. Station WBPT presently operates on Channel 295C with an effective radiated power ("ERP") of 100 kilowatts ("kW") at 351 meters height above average terrain (HAAT), which is below the minimum Class C antenna height of greater than 450 meters HAAT with 100 kW ERP. Harper asserts that because Station WBPT is operating below minimum Class C standards, it is subject to reclassification as a Class C0 facility pursuant to the triggering procedures adopted in the Commission's *Second Report and Order*, MM Docket No. 98-93,¹ and outlined in note 2 to Section 1.420(g) and note 4 to Section 73.3573 of the Commission's Rules. The staff has tentatively concluded that if WBPT operates as a Class C0 facility, any short-spacing between Station WBPT and the proposed use of Channel 292A at the proposed Maplesville site would be eliminated. For the reasons discussed below, we are issuing this *Order to Show Cause* directed to CXR Holdings, Inc. ("CXR"), licensee of Station WBPT, Maplesville, Alabama to show cause why its facilities should not be reclassified.

2. Pursuant to the reclassification procedures set forth in the *Second Report and Order*, *supra*, and note 2 of Section 1.420 (g) of the Commission's Rules, the reclassification of a Class C FM station to a Class C0 station may be initiated through the filing of an original petition for amendment of the FM Table of Allotments. In those instances in which a triggering petition proposes an amendment or amendments to the FM Table of Allotments in addition to the proposed reclassification, the Commission will issue an order to show cause as set forth in Note 4 to Section 73.3573 of the Rules, and a notice of proposed rule making will be issued only after the reclassification issue is resolved. In order to comply with the foregoing reclassification procedures, it is first necessary to issue this *Order to Show Cause* directed to CXR to show cause why its Station WBPT license should not be modified to specify operation on Channel 295C0 in lieu of Channel 295C at Homewood, Alabama. Section 316(a) of the Communications Act of 1934, as amended, permits us to modify a license or construction permit if such action is in the public interest. Section 316(a) requires that we notify the affected stations of the proposed action, the public interest reasons for the action, and afford at least 30 days to respond. This procedure is now set forth in Section 1.87 of the Commission's Rules. *See Modification of FM and Television*

¹ 15 FCC Rcd 21649 (2000) ("1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules").

*Licenses Pursuant to Section 316 of the Communications Act.*² In this instance, the reclassification of Station WBPT as a Class C0 station at Homewood, Alabama, will accommodate the allotment of Channel 292A to Maplesville, Alabama, as proposed by Alatron. We consider this new allotment proposed by Alatron to have sufficient public interest benefits to justify the issuance of a show cause order.

3. The Station WBPT license at Homewood, Alabama, can be modified to allow the reclassification of Channel 295C to Channel 295C0 at its currently authorized transmitter site.³

4. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, CXR Holdings, Inc., licensee of Station WBPT, Homewood, Alabama, SHALL SHOW CAUSE why its license should not be modified to specify operation as a Class C0 station on Channel 295C0, Homewood, Alabama.

5. Pursuant to Section 1.87 of the Commission's Rules, CXR may, no later than September 3, 2002, file a written statement showing with particularity why its construction permit should not be modified as proposed in this *Order to Show Cause*. The Commission may call upon the licensee to furnish additional information. If the licensee raises a substantial and material question of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87 of the Rules. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, the licensee will be deemed to have consented to a modification as proposed in this Order to Show Cause and a final Order will be issued if the modification is found to be in the public interest. If CXR chooses to seek authority to modify Station WBPT's facilities, an acceptable application for a construction permit to increase the antenna height to greater than 450 meters HAAT and 100 kW ERP or the equivalent must be on file with the Commission within 180 days subsequent to the show cause response due date (September 3, 2002).

6. IT IS FURTHER ORDERED, That a copy of this Order to Show Cause shall be sent BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the following:

Christopher W. Johnson
Vice President
Alatron Corporation, Inc.
P.O. Box 83
Clanton, Alabama 35046

7. For further information concerning this proceeding, contact Victoria M. McCauley, Media Bureau (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

² 2 FCC Rcd 3327 (1987).

³ The reference coordinates for Channel 295C0 at Homewood are NL 33-29-19 and WL 86-47-58.